

REMARKS

Examiner Pham is thanked for the favor of the telephone interviews of December 9, 10 and 12, 2008.

Claims 1-5, 9-12, 18-23 and 33 are pending, with claim 1 being independent.

Claims 1 is presented to be amended as described below.

Applicant submits that entry of this Amendment after Final Action is proper under 37 C.F.R. § 1.116 because the amendment only complies with the requirements set forth in the final Office Action. Applicant further submits entry of the amendment will place this application in condition for allowance.

Accordingly, Applicant respectfully requests the Examiner to enter the amendment and pass this application to issue.

Discussion**Rejection under 35 U.S.C §102**

Claims 1-3, 18-20 and 33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese patent document JP 58-18928 to Fujisada, et al. ("Fujisada"). However, in the final Office Action the Examiner generously offers proposed amendments to claim 1 which she considers to patentably distinguish over the art of record in this application.

Applicant submits that the figures of Fujisada clearly show a resist layer 3 having a surface which is not planar. Specifically, defects or protrusions 2 are thinly coated in resist 3 and are shown rising through multiple planes. The surface of the resist layer 3 is not flat, i.e., not two-dimensional, it conforms to the shapes of the rising protrusions 2. At least in view of the above, the Applicant respectfully submits that the resist layer 3 of Fujisada differs completely from the protective layer having "a planar top surface" as recited in claim 1 as pending. Thus, at least in view of the above difference, Applicant disagrees with the Examiner that Fujisada anticipates claim 1 as pending.

This being said, and in order to move the application to issue, Applicant has amended claim 1, as proposed by the Examiner, to recite:

A method for removing defects from a semiconductor surface, comprising:
coating the semiconductor surface and the defects with a protective layer,
wherein the protective layer has a completely planar top surface covering top portions of the defects, and wherein the semiconductor surface and the defects are composed of the same material;
thinning the protective layer to selectively remove a portion of the protective layer wherein remaining portions of the protective layer partially reveal top portions of the defects;
removing the defects; and
after removing the defects, removing the remaining portions of the protective layer.

This amendment is made solely for the purpose of clarifying the scope of the claim. Applicant expressly notes that therefore this amendment is not made for purposes related to patentability, because the amendment does not alter the scope of the claim, but rather merely clarifies it.

Applicant therefore submits that claim 1 as amended is patentable, as indicated by the Examiner, and respectfully requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. §102.

Rejection under 35 U.S.C §103

Claims 4, 5 and 9-12 stand rejected under 35 U.S.C §103(a) as being obvious over Fujisada in view of Kudo, et al (JP 63-213346) or Nagayama, et al. (JP 4070704147); and claims 21-23 stand rejected under 35 U.S.C. § 103(a) as being obvious over Fujisada in view of Takehiko, et al. (JP 06041770) or Skee, et al. (U.S. 5,989,353).

Claims 2-5, 9-12, 18-23 and 33 depend, either directly or indirectly, on claim 1. Applicant respectfully submits that at least in view of their dependency on claim 1, claims 2-5, 9-12, 18-23 and 33 are patentable and requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. §103.

Conclusion

Claim 1 should be amended as proposed above in order to put this application in better condition for appeal. In addition, the Applicant submits that the application will also be in condition for allowance and respectfully urges the Examiner to pass this case to issue.

The Examiner is respectfully invited to telephone the undersigned attorney as needed in order to advance the examination of this application.

* * *

The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 C.F.R. §1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

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